REMARKS

Claim rejections under 35 U.S.C. § 112

Claims 7, 32 and 34 were rejected for having improper claim dependencies. Applicant

has amended claims 7, 32, 34 and 45 to have correct claim dependencies.

Claim rejections under 35 U.S.C. § 103

Before addressing the specific obviousness rejection, Applicant wishes to clarify what is

required to support an obviousness rejection. The Office Action must establish a prima facie

case of obviousness to meet the burden of ' 103. In establishing a prima facie case of

obviousness, the PTO "cannot use hindsight reconstruction to pick and choose among isolated

disclosures in the prior art to deprecate the claimed invention." Id. at 1600. Rather, "[t]he test

is whether the claimed invention as a whole, in light of all the teachings of the references in

their entireties, would have been obvious to one of ordinary skill in the art at the time the

invention was made." Connell v. Sears, Roebuck & Co., 220 U.S.P.Q. 193, 199 (Fed. Cir. 1983).

Applicant submits that the Office Action does not make a prima facie case of

obviousness in that it does not show that the combined inventions would result in the claimed

invention. See In re Fine, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988). With these requirements in

mind, the specific rejections are now addressed.

In item 4, claims 1, 2, 5, 7, 9-18, 28, 29, 32, 34, 36-43 and 45 are rejected as being

obvious over Hsieh in view of Beriker. It is asserted that Hsieh teaches all of the elements of

claim 1 except for element 11) adding to the parsed search results stored in the database so as

to reflect incremental increases in the parsed search results, and element 12) transmitting the

incremental increases in the parsed search results, to thereby avoid resending all the search

results. It is asserted that Beriker teaches these two elements in paragraphs [0095] through

[0099].

Applicant respectfully traverses the rejection of claim 1. Beriker does not teach the two

elements in the cited paragraphs, or anywhere within the document. Beriker teaches

performing a search. When certain keywords are used, Beriker teaches consulting a

merchant's database. Merchants are allowed to bid for the ranking that their products will

receive in a list of search results that come from the merchant's database. The web spider

cited in Beriker [0095] may incrementally add to the database of information it is storing,

thereby satisfying element 11 of claim 1. However, the present invention teaches and claims in

element 12 that only new results are sent to the searcher (see [0040] of the present invention).

Beriker fails to teach that only new search results are sent to the searcher. Beriker does not

teach or suggest that the keyword search results are limited in any way. Beriker only teaches

that the order of the search results is adjusted to reflect how much that merchants are paying

to be listed ahead of competitors when the search results are shown (see claim 1 of Beriker,

"...said list ordered by current bid prices...").

Claim 16 is rejected because the Office Action asserts that "Hsieh and Beriker teach the

invention substantially as claimed."

Applicant respectfully traverses the rejection of claim 16. Claim 16 includes a scheduler

and balancer. Hsieh does not teach automatic searching. Hsieh does not have the ability to

perform searches in an automated fashion. With no automatic scheduled ability to repeat

searches, there is no possibility that Hsieh can have a scheduler. Figs 36 and 38 of Hsieh which

are cited as showing the feature of a scheduler and balancer only show that search results are

in some way shown in an organized manner. These figures do not show anything related to

being able to schedule a search or balance the search process. Applicant respectfully requests

that the specific scheduler or balancer of Hsieh be identified, or the rejection be withdrawn.

Furthermore, the balancing function of the present invention is explained in [0056] and

[0057]. The balancer ensures that the system performing the searches is not being overloaded.

This function is never mentioned in Hsieh or Beriker. Applicant respectfully requests that the

specific scheduler or balancer of Hsieh be identified, or the rejection be withdrawn.

Claims 28 and 43 are rejected for the reasons given above for rejection claims 1 and 16.

Applicant respectfully traverses the rejection of the claims for the reasons given above and

requests that eh rejections be withdrawn.

Regarding claim 2, the claim is rejected because Beriker is asserted to teach

transmitting search results to an email address. It is asserted that sending an email to a

merchant of an increase in the amount charged for a click-through by a consumer is the same

as sending search results that modified so that only new results are sent. Applicant

respectfully traverses the rejection as the information being transmitted is not related. The

fact that information is being transmitted does not reflect the limitation being claimed. The

rejection should be withdrawn. Neither Hsieh nor Beriker teach that if a search is performed

twice, only new results are sent the second time. Both Hsieh and Beriker will all search results

each time that a search is performed. The present invention does not. Therefore, different information is being sent via email as is claimed.

Regarding claim 5, Hsieh uses a timer so that the search process does not continue indefinitely. In contrast, claim 5 states that search results include a time stamp. A timer is not the same thing as a time stamp. Furthermore, the timer and time stamp are not performing the same function. The time stamp is used so that after new search results are added to existing search results, the system can determine which search results are new, and need to be sent to the searcher via email. In contrast, the timer of Hsieh is used to stop the search process if it is taking too long. The purposes are completely unrelated, and Applicant respectfully requests that the rejection be withdrawn.

Regarding claim 7, the limitation refers to not sending search results after each search is completed, but holding them or "batching" the search results in groups so that a searcher is not receiving search results from each search. In Hsieh, figures 44 and 45 and the explanation in the specification [0421] to [0423] never mentions that any search results are delayed. The topic of delay is never even raised. The rejection should be withdrawn.

Regarding claim 10, this claim is dependent upon an allowable independent claim.

Regarding claim 11, this claim is dependent upon an allowable independent claim.

Regarding claim 12, this claim is dependent upon an allowable independent claim.

Regarding claim 13, this claim is dependent upon an allowable independent claim.

Regarding claim 14, this claim is dependent upon an allowable independent claim.

Regarding claim 15, this claim is dependent upon an allowable independent claim.

Regarding remaining claims 9, 16, 17, 18, 29, 32, 34 36-43 and 45, Applicant respectfully traverses the rejection for the reasons given above in support of claims 1, 2, 5 and 7, and requests that the rejections be withdrawn.

In light of the statements above, Applicant respectfully requests issuance of claims 1, 2, 5, 7, 9-18, 28, 29, 32, 34, 36-43 and 45. If any impediment to the allowance of these claims remains after entry of this Amendment, and such impediment could be alleviated during a telephone interview, the examiner is invited to call David W. O'Bryant at (801) 478-0071 so that such matters may be resolved as expeditiously as possible.

The Commissioner is hereby authorized to charge any additional fee or to credit any overpayment in connection with this Amendment to Deposit Account No. 50-0881.

DATED this 30th day of November, 2007.

Respectfully submitted,

David W. O'Bryant
Attorney for Applicant
Registration No. 39,793
MORRISS O'BRYANT COMPAGNI, P.C.
734 East 200 South
Salt Lake City, Utah 84102
(801) 478-0071 telephone
(801) 478-0076 facsimile